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**SEP 25 2006**

**OFFICE OF PETITIONS**

In re Patent No. 7,062,816	:	DECISION ON REQUEST
Kasper et al.	:	FOR RECONSIDERATION OF
Issue Date: June 20, 2006	:	PATENT TERM ADJUSTMENT
Application No. 10/064,723	:	and
Filed: August 9, 2002	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 71189-1423	:	CERTIFICATE OF CORRECTION
	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154 AND 37 C.F.R. § 1.705(D)" filed August 3, 2006. Patentees request that the Patent Term Adjustment indicated in the Issue Notification (and in the patent) be corrected from three hundred nineteen (319) days to four hundred five (405) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED to the extent indicated herein.**

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of four hundred four (404) days.

On June 20, 2006, the above-identified application matured into U.S. Patent No. 7,062,816. The instant request for reconsideration filed August 3, 2006 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 319 days. Patentees dispute a reduction of 85 days associated with the filing of a "miscellaneous incoming letter" received in the Office on March 28, 2006. Patentees indicate that this letter was not filed in this case but in an unrelated application number and placed in this application history in error. By

arguing for entitlement to 405 days, patentees, in effect, also dispute the reduction of 1 day associated with receipt of their Issue Fee payment on April 24, 2006.

As to the reduction of 85 days, patentees are correct. A review of the relevant application histories confirms that no paper (other than the Issue Fee payment) was filed in this application after the mailing of the Notice of Allowance. Further the paper filed March 28, 2006 was subsequently moved from the image file wrapper of the instant application to the image file wrapper of the unrelated application. As such, the reduction of 85 days is not warranted and has been removed.

However, as to the reduction of 1 day, the reduction is proper. Pursuant to § 1.704(b), a reduction is properly entered for the number of days in excess of three months an applicant takes to

reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

In this instance, the Notice of Allowance was mailed on January 23, 2006, but patentees' response was not received in the Office until April 24, 2006, three months and 1 day later. Thus, the reduction of 1 day is proper.

In view thereof, the patent term adjustment indicated on the patent should be four hundred four (404) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a

certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **FOUR HUNDRED FOUR (404)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson", with a long horizontal flourish extending to the right.

Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,062,816 B2  
DATED : June 20, 2006  
INVENTOR(S) : Kasper et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (319) days

Delete the phrase "by 319" and insert – by 404 days--